

THE
SPANISH MEMORIAL

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9

of 4th June

CONSIDERED,

by

Dalrymple.

L O N D O N,

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1st Aug. 1790.

The SPANISH MEMORIAL of 4th June
Considered.

IN a measure so important as a War, between two powerful Nations, in which multitudes must fall, whatever be the ultimate Event! and in which, Calamities, worse than Death, must ensue! It would be extremely mortifying to suppose that the Ignorance, Arrogance or Insolence of Officers of either Government, had involved the two Countries, frantickly into Hostilities, contrary to their mutual Interests, and subversive of the Principles of Humanity! I trust, both Countries have too much Liberality and Sagacity to be carried
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blindfolded into such a Contest: But, it appears to me, from the Spanish Memorial, that the *True Grounds*, on the part of *Great Britain*, for *demanding Satisfaction*, have not been understood.

1. An English Vessel, the *Princess Royal*, in every manner unexceptionable, fitted out from England, publicly in 1786, with the permission of the *South-Sea-Company*, and of the *East-India-Company*, for a Voyage to the NW Coast of America and China; and back to the NW Coast of America: is seized, in 1789, at, or near, *King-George's-Sound*, or *Nootka*, on the Coast of *New Albion*, by the Spaniards, without The Court of Madrid having even given any previous intimation to The Court of Great Britain, that they claimed
the

the sole Navigation of those Seas, although two Ships had, in the same publick manner, gone, from England in 1785, on that Voyage.

2. That the Commander of another English Vessel, the Argonaut, Capt. Colnett, who bore H. B. Majesty's Commission, as a Lieutenant in the Royal Navy, was ignominiously put in the *Stocks*; and treated with indignities, contrary to the rules of War, and the custom of civilized Nations.

3. And that H. C. Majesty's Naval Officer, who was guilty of these enormities, to mark his Insult to the British Nation in the most pointed manner, at the same time, not only permitted *two American* Vessels to remain unmolested, but celebrated,

with every mark of publick rejoicing, the Anniversary of the Separation of the Anglo-American Colonies from the Mother Country: Whilst the British Flag was ignominiously struck by H. C. Majesty's Officer, in time of profound peace, and the *Spanish Flag* hoisted over it; the known expression of Conquest in War.

So flagrant an Act of National Degradation is not lightly done away, but as the Insult and Injury was publick, the Satisfaction and Atonement must be publick! And it is This Atonement The British Nation is entitled to expect, *before* They enter into any Discussion whatever: It is this Sense of Insulted Honour that equips their Fleets! to demand of Spain that Reparation which is due to Acts committed
under

under the Sanction of the Spanish Court!
 The Law of Nations making the Government answerable for every thing, done by Officers acting under Its Authority: because if the State could throw the imputation on the Individual, there could be no means of obtaining Redress: and by the extent of Loss which the State suffers for reparation; It is made attentive to restrain, by condign punishment, the inordinancy of Its Officers! and the untransgressing Subject, of every State, is secured from injury and ruin; Referring the Settlement of any contested Claims, to the Governments of each Country, where alone they can, or ought to be discussed.

If the Spanish Court, on the representation of these Grievous Injuries and
 Insults,

Insults; had, without reserve, disavowed the authority under which their Officer pretended to act; and given assurances of ample Satisfaction, and Recompence for the Expences, necessarily incurred for obtaining that Satisfaction, Then a Negotiation might have, honourably and becomingly, taken place, for the discussion of all claims, and compensation for private Losses.

It would be in the nature of *Anticipation* to enter into the Discussion of the Spanish Memorial at large; but as many asseverations, in It, are not warranted by any documents we have received, and others positively contradicted by these documents, I am induced to take some further notice of that Memorial.

It

It is extraordinary that, in the General Reference to Treaties under which the Spaniards form their Claims, and especially to Treaties with Great-Britain, there should be no particular reference to the *Specific Articles*, nor even to the *Specific Treaties*; to guide the inquisitive Statesman to the Study of the Point in question: This cannot convey a favourable impression in support of the claim!

It alledges, that to both Courts are wanting the circumstantial Proofs of what has passed: It is not in the nature of Things, that formal and regular documents of Injuries can be conveyed, from the injured Subject to The Parent-State; and if no Reparation was to be claimed, without that formal and precise-detail of the Injury done, Then
by

by so much as the Injury was grievous and oppressive, by so much would it be more difficult, or even impossible, to state the injury: There are no Letters from either of The Commanders of the English Vessels; the only inference that can be drawn is “ That *They* were *not allowed* to “ write to their Owners, or that the *Letters*, “ which they *did write*, have been suppressed “ by the Spaniards,” and thus what is alledged as *extenuation* is an *aggravation*,

But although there are no precise and authentic documents to shew *all* that has *passed*, the Testimonies are unexceptionable, that the two Vessels beforementioned were seized, that the English Colours were struck, and the Spanish Colours hoisted over them: that Capt. Colnett was put
in

in the Stocks, at the same time that American Vessels were not only unmolested, but treated with all courtesy and respect by the Spanish Officer, who, in compliment to them, celebrated the Anniversary of Anglo-American Independance.

Although the British Court has not received the full and exact account of *all* the *Injuries* suffered by British Subjects; It is very extraordinary indeed that *precise Documents* have not been received, by The Court of Spain; when it is notorious to all The World with what *minute detail* all *Incidents* are registered by their Officers abroad! The only Inference that can be drawn, from such an *unusual Silence*, is, that The Spanish Administration abroad was ashamed of the Conduct of Its Officers;

and that private Affections or Partialities had screened Dilinquency.

The Spanish Memorial alledges that the Vessels were only *stopt*, and *not confiscated*; and ambiguously implies that they must now be released, The Viceroy of New Spain having *resolved* to release them, either without any Condition, or on the Captain signing a Declaration of becoming responsible in case of the Vessel being declared a legal Capture; in the same manner as a Portuguese Vessel, and two American Vessels, had been liberated.

That a Vessel, under the Portuguese Flag, had been so liberated is admitted, but the American Vessels were not ever *stopt* or *impeded*, which the Captain of one of them, the
Columbia,

Columbia, said in China " He *understood*,
 " was because the Spaniards were *afraid* of
 " *offending* the *Americans*, on account of their
 " vicinity to the Spanish Settlements, and
 " therefore did not stop them."

If I had commanded a Vessel, publicly
 equipped for a Voyage to the NW Coast
 of America, I most certainly, knowing
 myself no Smuggler, would have refused
 to have made myself responsible for con-
 sequences, to which the fair and open
 purpose of my Voyage did not expose
 me: If enabled to *resist*, I would have
resisted: if overpowered by force, I would,
 by all means possible in my situation,
 have protested against the Act of Violence,
 but I would not have received the Vessel

back, on any Condition of Responsibility !
 It appears to me contrary to the Law
 of Nations, and to every Idea of Common
 Sense and Common Justice, for any Vessel
 to be *stopped*, where the Party so detaining
 has a doubt, of his being warranted in
 such Detention.

It is alledged, that in the 1st Communi-
 cation from the Spanish Ambassador at
 the Court of London to the Ministry
 there on the 10th of February, he could
 not specify many of the circumstances *now*
known, nor the *repeated Acts* of Possession
 of Spain, on that Coast and Port, antece-
 dent and subsequent to those then cited.

Not

Not knowing what was said in the Communication of the 10th February, nor what *Acts of Possession* are now referred to, I can only say, that there is every evidence, the Nature of the Case is capable of admitting, to testify that when Capt. Cook visited King-George's Sound, or Nootka, in 1778 The Natives were unacquainted with other Europeans: that it does not appear any Europeans, besides English, had been *there* 'till the Trade thither was carried on by the English from India and England: and an amicable Intercourse with the Natives established.

It is alledged, that if The Court of London, at the time of replying to this Communication of Friendly Complaint,
given

given in the name of the King of Spain, against Navigators which Spain reckoned contraband by the subsisting Treaties, had acted consonant to the desire now manifested to examine and accommodate these disputes amicably, It would have saved much expence and disgust.

Ignorant as I am of what passed, on that occasion, It is impossible to say how far this Complaint of the want of early Communication is well-grounded: But it is obvious, that It behoved Spain, if She thought She had any claims to the exclusive Navigation of those Seas, to have urged such Claims amicably to The Court of Great Britain, and to have communicated Her Intentions to enforce them, before

before Orders were sent to that Effect :
 For the Proceedings, warrantable against
 illicit and contraband Trade, are unwarrant-
 able against a fair and open Trade,
 avowedly carried on, under the countenance
 and protection of the State.

The Allegation, that the King of Spain
 does not mean to extend the pretension of
 " right to *all* the South-Seas, even to
 " China" But only to " The Sovereignty,
 " Navigation and exclusive Commerce of
 " the Continent and Islands in the South
 " Sea, in the manner *It has always been*
 " *accustomed to understand the Words in*
 " *treating of Their Indies,*" is not the most
 distinct and satisfactory method of ex-
 plaining the Extent of their pretensions:

It

It would have been more distinct, "accord-
 "ing to the acceptation of other Nations,"
 instead of the Sense They themselves are ac-
 customed to understand It. Their exposition
 of what they mean, viz. " The *Continent*,
 " *Islands and Seas*, which by *Discovery*, by
 " *Treaties*, and by *immemorial possession*, have,
 " and do belong to them, with the
 " concurrence and consent of all Nations"
 leaves the Matter in the same obscurity:
 Without entering into the claim of *Dis-*
covery, No Nation, at peace with Spain,
 can reasonably dispute " *what* They have
 " by Treaty, and immemorial possession,
 " with the concurrence and assent of all
 " Nations," but *what* they have by Treaty
 and by immemorial possession, with the
 concur-

concurrence and assent of all Nations, is
a question of great extent!

It is said, that Spain having *no fixed Establishments* on any Coast, Port or Bay, is *no proof*, that it is not *Theirs*. It, at least, is certainly *no proof*, even presumptive, that *it is!* But the Inference, drawn by the Memorial, does not follow, “ that the
“ consequence of the former assumption
“ would entitle any Nation whatever, to settle
“ in the *Dominions* of another Nation, in
“ America, Asia, or even in Europe, where
“ there are no fixed Establishments.”

In *Europe*, every Spot of Land is the particular property of some Individual, subject to the Laws of The Country, and protected

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in the property by The State; and therefore every Spot is appropriate to a *Fixed Establishment*, which does not imply, or require, a Fortification or Place of Arms. In America, and Asia, there are many Places in actual and individual possession of the Subjects of European States, over whom These States exercise jurisdiction: But, without *jurisdictione authority*, there can be *no rightful Dominion!*

— and therefore such Places, in America or Asia as are inhabited by *Aborigines*, who do not acknowledge the jurisdiction of any European Power, must be free to whatever Friendly intercourse they may be inclined to admit, without the breach of any subsisting Treaty, or The Law of Nations: Not to mention that the Conduct

duct of Spain, and other Powers, in the
 Contest between Great Britain and Her
 American Colonies, has decided, as far as
 such Conduct could decide, that whenever
 Subjects, having taken up arms, *avow*
 and *are able to maintain* their *Independance*,
 that then Their *actual Independance* is to be
 acknowledged by all Nations!

Chief of Spain, and other Powers, in the
Council between Great Britain and Her
American Colonies, has decided, as far as
such Council could decide, that whenever
any thing shall be done, it shall be done
and not with to make any difference,
that then that shall be done is to be
acknowledged by all Nations.



